



## Ep. 02: Client Confidentiality in the Age of Coronavirus

June 24, 2020

*Confidentiality is fundamental to the client-lawyer relationship. It encourages candid communication between client and lawyer, and assists the lawyer and more effectively representing the client. These times call for us to be especially sensitive to maintaining these essential protections.*

Hi, I'm **Christine Lipsey**, a Member of and General Counsel of McGlinchey Stafford in McGlinchey's Baton Rouge office. The topic of confidentiality and the age of coronavirus is extremely important because there are more factors at play today, such as work from home, the lack of structural support typically provided in an in-office setting, teleconferencing, video conferencing, possible third-party access to client information, and more. As members of the legal profession, lawyers have a confidentiality framework that informs the precautions we need to take. Lawyer professional conduct rules require a lawyer to make reasonable efforts to prevent inadvertent or unauthorized disclosure, or unauthorized access to, information relating to the representation of a client.

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*what might be reasonable efforts as required by the lawyer professional conduct rules?*

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So let's talk specifically about different confidentiality concerns and what you can do about them. In other words, what might be reasonable efforts as required by the lawyer professional conduct rules? We can first begin with computer security.

Obviously you'll want to ensure your computer network is secure by using virtual private networking, referred to as VPN. Also ipads and cell phones should require multifactor authentication. Another set of concerns revolves around various forms of communication, such as phone calls, conference calls, video conferences, and any verbal discussions containing information related to the representation of a client. Client related information should not be discussed in the presence of family members or third parties. Additionally, recent reporting has warned about discussing confidential information in the presence of AI listening devices, for example, Amazon's Alexa or Google's voice assistant. These devices may be activated inadvertently, even if trigger words aren't used. The same applies to video devices, such as doorbell cameras, baby, and televisions. Another concern that

has gotten a fair amount of publicity lately is the subject of video conferencing and the platforms associated with video conferencing.

There has been a fair amount discussed about security or insecurity of certain video platforms. One of the apparent issues is the lack of end-to-end encryption in some platforms, jeopardizing information, as it is in transit and at rest. Do your homework on which platforms provide the necessary protection to preserve confidentiality and take steps to ensure that you're using one of those platforms. As to personal computers, you'll want to avoid emailing to your personal computer, or storing on your personal computer, any documents from a client or any documentation concerning client information, including pleadings or spreadsheets. Regarding printed documents: If you printed documents at the office and brought them home, or if you have printed documents at home which contain client information, they must be maintained in a manner where a third party can't read them. Also only print documents at home that you must print to work more effectively and efficiently.

Finally, before printing at home, a document containing client information, ensure that your client engagement letter or any other controlling engagement document does not prohibit doing so. Finally, document destruction. If you have documents containing client information that are no longer needed and require disposal, shred them at home, if possible. If not store the documents in a safe place and dispose of them upon your return to the office. Think about it this way: we now have the unique opportunity to refocus on the reasons for confidentiality and the necessity to preserve client confidences. The current renewed awareness may well foster innovation surrounding our approach to and consideration of confidentiality. I'm Christine Lipsey. Thanks for joining me for this Coronavirus Legal Minute from More with McGlinchey.

*Thanks for tuning into this episode of "More with McGlinchey." If you have a question or would like to propose a topic, we'd love to hear from you at [podcast@mcglinchey.com](mailto:podcast@mcglinchey.com). For additional resources on this topic, please visit [mcglinchey.com](http://mcglinchey.com). On behalf of the law firm that brings you more, we hope you'll join us next time.*



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